THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.19242 of 2003

Between:

Earaboina Shanker. .. PETITIONER

and

The Govt. of A.P.,
Department of Home.
.. RESPONDENT

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ORDER:

It is stated that the brother of the petitioner was convicted by the Additional Sessions Judge, Adilabad, in S.C.No.233 of 99, on 04-07-2002,

for the offence under Section 302 read with 34 IPC. Further, Crl.A.No.950 of 2001, which was filed against the said judgment, was also dismissed by this Court through, judgment, dated 17-07-2002. The petitioner's brother is convict No.1530 at Central Prison, Cherlapally, Ranga Reddy District. It is stated that his correct date of birth is 05-07-1983 as per the record sheet issued by the Head Master of Upper Primary School, Kothagudem, Chennur. Thus, as per the said date of birth, the brother of the petitioner was adolescent offender as per the provisions of A.P.Borstal School Act, 1925. But, in view of the date of birth certificate issued by the Gram Panchayat, Chennur, Adilabad District, showing his date of birth as 20-07-1982, his case was not considered to transfer to the Borstal School. Accordingly, he filed representation, dated 29-10-2002, before the Government to direct proper verification by the concerned District Probation Officer regarding authenticity of the certificate with regard the date of birth and take immediate steps to transfer his convicted brother to the Borstal School.

As the said request was not considered, the petitioner was constrained to file this writ petition.

This Court admitted this writ petition on 12-09-2003. Thereafter, on 09-07-2004, this court directed the respondent to cause an enquiry by calling for a report from the District Probation Officer, Adilabad District, with regard to the correct age of the brother of the petitioner, in the light of the record sheet issued by the Head Master, Upper Primary School, Kothagudem, Chennur, wherein his date of birth was recorded as 05-07-1983, within a period of six weeks from the date of receipt of copy of the order and to submit the said report to this court.

Pursuant to the said order, the District Probation Officer, Adilabad, conducted an enquiry and sent a report No.DPO/1/04, dated 24-08-2004,

to the Superintendent of Central Prison, Cherlapally, marking a copy to this court, stating that on verification it was revealed that the date of birth of the petitioner's brother was recorded in Upper Primary School, Kothagudem, Chennur, as 05-07-1983 and he also enclosed copy of the said date of birth obtained from the Head Master, Upper Primary School, Kothagudem, Chennur.

Having regard to the facts and circumstances of the case, I am of the opinion that it is just and proper to direct the respondent to consider the representation of the petitioner, dated 29-10-2002, and pass appropriate orders, in the light of the report submitted by the District Probation Officer, Adilabad, on 24-08-2004, to the Superintendent of Central Prison, Cherlapally.

Accordingly, the writ petition is disposed of directing the respondent to pass appropriate orders, in the light of the report submitted by the District Probation Officer, Adilabad, on 24-08-2004, to the Superintendent of Central Prison, Cherlapally, in accordance with law, as expeditiously as possible. There shall be no order as to costs.

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13-02-2007

Prv